

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PAIR NETWORKS, INC.,)
Plaintiff,) Civil Action No.2010-01122
vs.)
JOAQUIM RODRIGUES,) JURY TRIAL DEMANDED
Defendant.)

CONSENT JUDGMENT

Plaintiff, pair Networks, Inc., having filed the action herein charging defendant, Joaquim Rodrigues, with infringement of plaintiff's federally registered trademark in violation of Section 32(a) of the Lanham Act, 15 U.S.C. §1114; with unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a), with dilution of plaintiff's marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c), and with unfair competition and infringement of plaintiff's trademark rights in violation of the common law of Pennsylvania; and the parties, having stipulated to the entry of this judgment, it is hereby

ORDERED, ADJUDGED, AND DECREED:

1. This Court has personal jurisdiction over the parties and over the subject matter of this action.
2. Since pair Networks pioneered the field of web hosting in 1995, it has grown to host hundreds of thousands of web sites and over one hundred thousand pair.list mailing lists from customers from over 150 different countries. Plaintiff pair Networks has been and continues to be a leader in the web hosting field. Plaintiff pair Networks is now one of the

largest privately-held and independently-operated web hosting providers in the world. Plaintiff pair Networks has thousands of Web servers on site, which deliver over 400 million hits per day. The servers of pair Networks have over 1(one) Petabyte (PB) of storage connected to the Internet and on a typical day , deliver more than one billion Web hits per day via their servers. By virtue of the Internet, the significant majority of pair Network's customers come into the pair Network's family through its web sites, *pair.com*, *pair.net*, and *pair.org*, or other web sites incorporating the pair name, such as *pairhost.com*, *pairhost.net*, or *pairhost.org*.

3. Plaintiff pair Networks, Inc. is the owner of is the owner of the Internet domain names *pair.com*, *pair.net*, and *pair.org*, other Internet domain names incorporating the pair name, such as *pairnic.com*, and other Internet Domain names closely related to the pair name. Plaintiff uses these domain names in providing web site hosting services on the Internet.

4. Plaintiff is also the owner of U.S. Service Mark Registration No. 2,172,950 for "PAIR NETWORKS" for "providing web page hosting services on a global computer information network", Registration No. 2,490,582 for "PAIR NETWORKS" (stylized), and Registration No. 2,822,208 for "PAIR" for "hosting the web sites of others on a computer server for a global computer network." Furthermore, Plaintiff is the owner of Registration No. 3,410,595 for "PAIRLITE" (stylized) for "providing webhosting services for others on a global computer information network", Registration No. 2,527,469 for "PAIRNIC" for "providing domain name registration services through a global computer network", and Registration No. 2,597,075 for "PAIRLIST" for "providing bulk email list hosting services for others on a global computer network". These registrations are valid, unrevoked, subsisting, and in full force and effect.

5. pair Networks also is the owner of a number of European Community Trademark Registrations: Registration No. 001525294 for *PAIR*; Registration No. 001525336 for *PAIR NETWORKS*; Registration No. 001525310 for *PAIRNET*, and Registration No. 002680841 for *PAIRNIC*.

6. In the case of *pair Networks, Inc. vs. Shiloh Jennings, d/b/a PAIRNET WEB HOSTING*, the defendant registered the domain names *pairnet.com*, *pairnetwebhosting.com* and *pairnetwebhosting.net* and advertised web hosting services. The Western District of Pennsylvania entered a CONSENT JUDGMENT permanently enjoining and restraining defendant from “using in any manner the domain names pairnet.com, pairnetwebhosting.com and pairnetwebhositing.net in connection with any Internet service provider, software, or Internet related service.” *See Order of Court, December 9, 1999 (W.D. Pa. 1999)*, p.2. Defendant was further enjoined from “using the word “pair”, in a trademark sense, in any language, nor through synonym nor homonym, in connection with any Internet service provider, application service provider, software, or Internet related service.” *Id.*

7. In the case of *pair Networks, Inc. vs. PEAR.NET*, Civil Action No. 00-301-A, the defendant registered the domain name PEAR.NET and advertised that it was an “internet hosting web site”. The Eastern District of Virginia made the specific finding that “defendant’s use of pair violated Section 43(c) of the Lanham Act, 15 U.S.C. §1125 (c).” *See July 21, 2000 Slip Opinion at p.11, (E.D. Va. 2000)*. The court specifically found that the pair marks were “nationally and internationally known and associated with pair Networks’ products and services.” *Id. at p.3*.

8. pair Networks pair marks are nationally and internationally known and associated with pair Networks' products and services, and are thus "famous" under 15 U.S.C. §1125(d).

9. Accordingly, domain names using the word "pair" or "pear" are confusingly similar to pair Networks pair marks and any use of such words in connection with any Internet service provider, software, or Internet related service is a violation of Section 32(a) of the Lanham Act, 15 U.S.C. §1114; constitutes unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a), constitutes dilution of plaintiff's marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c), and constitutes unfair competition and infringement of plaintiff's trademark rights in violation of the common law of Pennsylvania

10. Defendant Joaquim Rodrigues has registered the following Internet Domain Names with Datacenter Luxembourg, S.A. d/b/a EuroDNS.com ("Euro DNS"): *pairsite.asia*, *pairdomains.com*, *pairmarketplace.com*, *paircertificates.com*, *pairemail.com*, *pairbusiness.com*, *pairsslcertificates.com*, *pairresellers.com*, *pairseo.com*, *pairvoip.com*, *pairmobile.com*, *pairwebsite.com*, *pairsupport.com*, *pairservers.com*, *pairregister.com*, *pairmultimedia.com*, *pairfax.com*, *paircorporation.com*, and *paircorporate.com*.

11. The domain names: *pairsite.asia*, *pairdomains.com*, *pairmarketplace.com*, *paircertificates.com*, *pairemail.com*, *pairbusiness.com*, *pairsslcertificates.com*, *pairresellers.com*, *pairseo.com*, *pairvoip.com*, *pairmobile.com*, *pairwebsite.com*, *pairsupport.com*, *pairservers.com*, *pairregister.com*, *pairmultimedia.com*, *pairfax.com*, *paircorporation.com*, and *paircorporate.com* are confusingly similar to pair's marks.

12. Within ten (10) days of the entry of this Order, Defendant Joaquim Rodrigues shall forward to Euro DNS, the appropriate materials to effectuate transfer of the domain names:

pairsite.asia, pairdomains.com, pairmarketplace.com, paircertificates.com, pairemail.com, pairbusiness.com, pairsslcertificates.com, pairresellers.com, pairseo.com, pairvoip.com, pairmobile.com, pairwebsite.com, pairsupport.com, pairservers.com, pairregister.com, pairmultimedia.com, pairfax.com, paircorporation.com, and paircorporate.com to pair Networks, Inc.

13. Defendant Joaquim Rodrigues, and all persons and entities in privity, combination, participation or acting in concert with defendant, including but not limited to his agents, servants, employees, franchisees, distributors, licensees, successors and assigns, attorneys, officers and directors, whether on behalf of any other business entity heretofore or hereafter created, are permanently enjoined and restrained from :

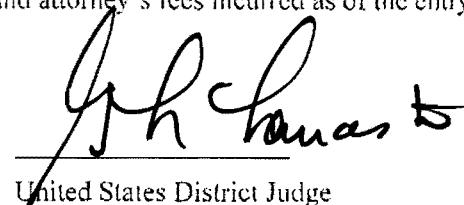
- (a) using in any manner the domain names *pairsite.asia, pairdomains.com, pairmarketplace.com, paircertificates.com, pairemail.com, pairbusiness.com, pairsslcertificates.com, pairresellers.com, pairseo.com, pairvoip.com, pairmobile.com, pairwebsite.com, pairsupport.com, pairservers.com, pairregister.com, pairmultimedia.com, pairfax.com, paircorporation.com, and paircorporate.com* in connection with any Internet service provider, software, or Internet related service.
- (b) using any domain name which is identical or confusingly similar to plaintiff's domain names *pair.com, pair.net, or pair.org*.
- (c) using the word "pair" in a trademark sense, in any language, or through synonym or homonym, connection with any Internet service provider, application service provider, software, or Internet related service; and

(d) doing any act or thing calculated or likely to cause confusion or mistake in the minds of members of the public or the trade, or prospective purchasers of defendant's products or services, as to the source of the defendant's Internet related products or services, or likely to deceive members of the public or the trade, or prospective purchasers, into believing that there is some connection between defendant and plaintiff.

14. The Clerk of the Court is directed to close this case. Jurisdiction, however, is retained by the Court for the purposes of enabling any party to apply to this Court at any time for such orders as may be necessary or appropriate for enforcement or compliance with this Consent Judgment.

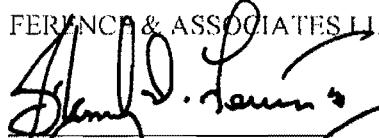
15. Each party shall bear its own costs and attorney's fees incurred as of the entry of this Consent Judgment.

Dated: Oct 8, 2010.


John Charles S.
United States District Judge

**WE HEREBY CONSENT TO
ENTRY OF THE FOREGOING**

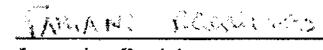
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